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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,238	08/22/2003	Thomas M. Balamucki	60446-229; 02ZFM009	9388
26096	7590	05/04/2005	EXAMINER	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			HO, HA DINH	
			ART UNIT	PAPER NUMBER
			3681	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/646,238	BALAMUCKI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ha D. Ho	3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 28 February 2005.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-7 and 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 5-7 is/are allowed.
- 6) Claim(s) 1-4 and 11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 February 2005 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

**DETAILED ACTION**

1. This Office Action is responsive to Applicant's Amendment filed 02/28/05. Claims 8-10 have been canceled, and claim 11 has been added accordingly. Claims 1-7 and 11 are currently pending.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Braun (US 4,555,959).

Regarding claim 1, Stainton et al teaches an auxiliary gearbox 14 of a transmission 10 comprising: a piston housing (170) having a first bore 272 and a second bore 274; a first piston 290 arranged within said first bore separating first (right) and second (left) chambers within said first bore, a first shaft 144 extending from said first piston and connected to a first shift fork 142 for selectively engaging a first auxiliary gear 112 in response to actuation of said first piston; a second piston 298 arranged within said second bore separating third (right) and fourth (left) chambers within said second bore, a second shaft 150 extending from said second piston and connected to a second shift fork 148 for selectively engaging a second auxiliary gear 108 in response to actuation of said second piston; a first actuator (168 and/or 164) fluidly connected to

said first chamber, a second actuator (166) fluidly connected to said second and fourth chambers, and a third actuator (162) fluidly connected to said third chamber; wherein a desired gear set is obtained by pressurizing both of said chambers within at least one of said first and second bores, e.g., both lines 1 and 3 are pressurized (see Fig. 5, and col. 9, lines 6-7).

Regarding claim 4, said first and second shafts extend from said pistons respectively into said second and fourth chambers, the first piston 290 adjacent to the first and second chambers, and the second piston 298 adjacent to the third and fourth chambers.

Regarding claim 11, a desired gear set is obtained by actuating two of the first, second and third actuators, e.g., the valves 162 and 166 are both actuated to supply pressure in lines 1 and 2 (see Fig. 5).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braun (US 4,555,959) in view of Stainton et al (US 5,528,949).

Braun shows the actuators being supported on the piston housing. Braun does not show the actuators being solenoids.

Stainton et al show a similar transmission system, wherein the actuators (208, 210, 212) for selectively providing pressurized fluid to actuate the pistons (170, 168).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the actuators of Braun being solenoids in view of Stainton et al, since the pressurized fluid actuated control system of Braun is equally applicable to control system of the electric or nay actuated types (Braun, col. 11, lines 14-18), and selection of solenoid for a valve actuator is old and well known in the art.

***Allowable Subject Matter***

6. Claims 5-7 are allowed.

***Response to Arguments***

7. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection (see paragraphs 3 and 5 above).

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Communication***

9. Submission of your response by facsimile transmission is encouraged. The fax phone numbers for the organization where this application or proceeding is assigned are **(703) 872-9306**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see M.P.E.P. 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P. 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to  
the Patent and Trademark Office on \_\_\_\_\_  
(Date)

Typed or printed name of person signing this certificate:  
\_\_\_\_\_  
\_\_\_\_\_  
(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P. 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ha D. Ho whose telephone number is **571-272-7091**. If attempts

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to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HDH  
(703) 305-0738  
April 29, 2005

*Ha Ho*  
**HAHO**  
**PRIMARY EXAMINER**  
Art Unit 3681      4/29/05